(*I.—Preliminary. Secs. 1-2.*)

IX.–MISCELLANEOUS.

SECTIONS.

81. [*Repealed.*]
82. Recovery of dues as fines under the Code of Criminial Procedure.
83. Trustees not personally liable.
84. Trustees liable for breach of trust.
85. Limitation of suits.
Effect of tender of amends in suit for damages.
86. Board not responsible for certain acts of their officers and servants.
Proviso.

SCHEDULE A.—PROPERTY VESTED IN THE BOARD.
SCHEDULE B.—RECEIPT FOR GOODS BY THE PORT TRUST, ADEN.

BOMBAY ACT No. V OF 1888.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 19th January, 1889.*)

An Act to vest the Port of Aden in a Trust.

WHEREAS it is expedient to vest the port of Aden in a trust and to provide for the management of the affairs of the said port by trustees; It is enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called the Aden Port Trust Act, 1888.

Definitions.

2. In this Act, unless there be something repugnant in the subject or context,—

(*a*) "port" means the port of Aden as defined for the purposes of this Act:

(*b*) "high-water mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year:

(*c*) "low-water mark" means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year:

(*d*) "land" includes the bed of the sea below high-water mark, and also things attached to the earth or permanently fastened to any thing attached to the earth:

(*e*) "master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel:

(*f*) the word "goods" includes wares and merchandise of every description:

(*g*) "owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and, when used in relation to any vessel, includes any part owner, charterer, consignee or mortgagee in possession thereof.

Power to define and alter limits of port.

3. (*1*) The Governor in Council may, by notification in the Bombay Government Gazette, define the limits of the port for the purpose of this Act, and may from time to time by a like notification alter such limits.

(*2*) Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port, whether within or without high-water mark, and, subject to any rights of property therein, any portion of the shore within fifty yards of high-water mark.

II.—Of the Board of Trustees.

Constitution of Board.

Act to be carried out by trustees.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board to be called "the Trustees of the Port of Aden;" and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Number of trustees.

5. The Board shall consist of such number of trustees as shall from time to time be fixed by Government, the same being not less than six.

Appointment of *ex officio* trustees and chairman.

6. The First Assistant Resident at Aden, the Executive Engineer, Aden, the Port Surgeon, Aden, and the senior officer of the Royal Engineers for the time being stationed at Aden, or, in the absence of any of the abovementioned officers, the officer acting for him, shall be *ex officio* trustees, and the First Assistant Resident at Aden, or, in his absence, the officer acting for him, shall be *ex officio* chairman of the Board.

Appointment of other trustees.

7. The rest of the trustees shall be appointed by Government, and of these such number as shall from time to time be fixed by Government shall not be public officers.

Publication of names of non-official trustees in the official Gazette.

8. The names of all trustees other than the *ex officio* trustees shall be published in the Bombay Government Gazette.

9. [*Term of office of first trustees when to commence.*] *Repealed by Act XVI of 1895.*

Length of term of office of non-official trustees.

10. Every trustee, other than the *ex officio* trustees, shall, unless he becomes in the meantime disqualified, hold office for a term of two years.

Filling up of casual vacancies.

11. (*1*) In the event of the death, resignation or disqualification of a trustee other than an *ex officio* trustee, or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment of a person thereto, who shall hold office so long only as the trustee in whose place he is appointed would have held it if the vacancy had not occurred.

Acting trustees.

(*2*) If a trustee other than an *ex officio* trustee departs from Aden with an intention of being absent for a longer period than three months, or if a trustee shall have been absent from Aden for such period, a person shall be appointed to act for such trustee during his absence, or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Re-eligibility of trustees.

12. A person who has already been a trustee on one or more occasions shall, if not disqualified under section 13, be again eligible at any time for appointment.

Disqualifications of Trustees.

Disqualifications for office of trustee.

13. (*1*) No person shall be qualified to be a trustee—

(*a*) who under any law for the time being in force is an uncertificated bankrupt or an undischarged insolvent, or

(*b*) who, unless he is an *ex officio* trustee, holds any office or place of profit under the Board, or

(*c*) who, unless as aforesaid, has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of the Board; or

(*d*) who has been sentenced by a Criminal Court to imprisonment or to whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit in this behalf;

Trustee who becomes disqualified to cease to be a trustee.

and any trustee who—

(*e*) becomes disqualified for any of the aforesaid reasons, or

(*f*) is absent from the meetings of the Board for a period exceeding six consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board,

shall cease to be a trustee, and his office shall thereupon become vacant:

Proviso.

(*2*) Provided always that no trustee shall vacate his office by reason only of his—

(*g*) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board, or

(*h*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(*i*) being interested in any loan of money to the Board.

Remuneration of Trustees.

Fee payable to trustees.

[*]**14.** Every trustee shall be entitled to a fee of such amount not exceeding thirty rupees as shall from time to time be prescribed by Government, for each meeting of the Board at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof: Provided that, if more than one such meeting is held in any one week, no more than one fee shall be paid to any trustee for his attendance at all or any of such meetings during that one week.

Proceedings of Board.

Provisions concerning the Board's proceedings.

15. The following provisions shall be observed with respect to the proceedings of the Board, namely:—

Vacancy not to affect Board's proceedings.

(*1*) During any vacancy in the Board the continuing trustees may act as if no vacancy had occurred.

Meetings of Board.

(*2*) The Board shall meet together, and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely:—

Two ordinary meetings in each month.

(*a*) that two ordinary meetings at least shall be held in every month;

Special meetings.

(*b*) that the chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting;

Quorum.

(*c*) that no business shall be transacted at any meeting unless at least three trustees are present from the beginning to the end of such meeting;

[*] This section was substituted for the original s. 14 by Bom. Act I of 1895, s. 1.

(*d*) that every meeting shall be presided over by the chairman, if he is present at the time appointed for holding the same, and, if he is absent, by such one of the trustees present as may be chosen by the meeting; Meetings to be presided over by the chairman.

(*e*) that all questions shall be decided by a majority of votes of the trustees present, the president having a second or casting vote in all cases of equality of votes; Questions to be decided by a majority of votes.

(*f*) that, if a poll be demanded, the names of the trustees voting and the nature of their votes shall be recorded by the president; Votes to be recorded if a poll is demanded.

(*g*) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any trustee during office hours. Minutes of proceedings.

(*3*) The Board may delegate any of their powers to committees consisting of such trustees as they think fit. Any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed. Board may delegate powers to committees.

(*4*) A committee may elect a chairman of their meetings, and, if no such chairman is elected, or, if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting. Committees' meetings to be presided over by a chairman.

(*5*) Committees may meet and adjourn as they think proper, but the chairman of the Board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee. Committees when to meet.

(*6*) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof. Questions how to be decided at committees' meetings.

(*7*) No act of the Board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the Acts of Board, etc., not to be

invalidated by informalities.

appointment of such Board, committee or trustee, or on the ground that they or any of them were disqualified for the office of trustee.

Mode of executing contracts.

16. (*1*) The chairman may, on behalf of the Board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing, and shall be signed by the chairman and by two other trustees, and shall be sealed with the common seal of the Board.

(*2*) No contract or agreement not executed as aforesaid shall be binding on the Board:

Proviso.

(*3*) Provided that the signatures of the chairman and two other trustees may be engraved, lithographed or impressed by any mechanical process, on coupons attached to debentures which the Board is at any time authorized to issue under the Local Authorities Loan Act, 1879 [*], or other law for the time being in force, and the signatures so engraved, lithographed or impressed shall have the same validity as if they were written in the proper handwriting of the chairman and other trustees. XI of 1879.

The Board may compound for claims against them.

17. The Board may compound or compromise for or in respect of any claim or demand made against them for such sum of money or other compensation as they shall deem sufficient.

The Chairman.

Duties of chairman.

18. The chairman shall—

(*a*) attend every meeting of the Board, unless prevented by sickness or other reasonable cause;

(*b*) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration and in matters concerning the accounts and records of the Board; and, subject to the regulations at the time being in force framed by the Board under section 20, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

(*c*) furnish to Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

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[*] Printed, General Acts, 1877-81, Ed. 1884, p. 335.

III.—Of the Officers and Servants of the Board.

Strength of Staff.

Schedule of officers and servants and of their pay and allowances to be prepared and sanctioned by the Board.

19. (*1*) The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Board sanctions for each such officer or servant.

(*2*), (*3*) [*Existing staff.*] *Repealed by Act XVI of 1895.*

(*4*) Provided—

Provisos.

(*a*) that artisans, porters and labourers, and mukaddams of porters and labourers, and persons temporarily employed in the engineering department, shall not be deemed to be officers or servants within the meaning of this section or of section 20, clauses (*a*) to (*d*), both inclusive, or of section 21;

(*b*) that, if an officer is lent to the Board by Government, the Board shall make such contributions, if any, on account of his pension and leave allowances as may be required by the rules in this behalf from time to time in force, and shall not, except with the consent of Government, dispense with his further services at any time, without giving to Government six months' previous notice;

(*c*) that every officer and servant, if any, maintained by Government on the [a] 31st March, 1889, [a] at the cost of the provincial revenues, for employment in connection with the Aden harbour, shall, if he is entitled as a Government servant to pension and leave allowances, be deemed to be lent to the Board on and from the [b] 1st April, 1889 [b].

Board to frame regulations—

20. The Board shall from time to time frame regulations—

for regulating leave;

(*a*) for regulating the grant of leave to the officers and servants of the Board;

for settling absentee allowances;

(*b*) for authorizing the payment of allowances of the said officers and servants, or to certain of them, whilst absent on leave;

for fixing acting allowances;

(*c*) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

for regulating length of service;

(*d*) for regulating the period of service of all such officers and servants;

for fixing pensions, etc.;

(*e*) for determining whether any of the said officers and servants, and if so which of them, shall on retirement receive pensions, gratuities

[a-a] These figures and words were substituted for the original words by Act XVI of 1895.

[b-b] These figures and words were substituted for the original words and figures by Act XVI of 1895.

or compassionate allowances, and whether compassionate allowances shall be paid to the surviving relatives of any of the said officers and servants who are killed in the execution of their duty, and if so to which of them, and the conditions under which such pensions, gratuities or compassionate allowances shall be payable and the amount of the same;

for authorizing contributions to provident fund.

(*f*) for authorizing the payment of contributions at certain prescribed rates, and subject to certain prescribed conditions, to any provident fund which may be established by the Board for the benefit of their officers and servants, or which, with their approval, may be established by their officers and servants themselves:

Proviso.

Provided that—

(*a*) no regulation framed by the Board under clause (*e*) shall have validity unless or until the same has been sanctioned by Government;

(*b*) any pension or leave allowance payable to any officer or servant of Government employed in connection with the Aden harbour prior to the [a] 1st April, 1889 [a] shall, in so far as the same has been earned during such employment, be a charge on the port fund and shall be defrayed thereout, on the requisition of Government, by the Board.

Powers of Appointment, etc.

Appointments, etc., by whom to be made.

21. (*1*) Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board under section 19, the power of appointing, promoting, suspending, dismissing for misconduct, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the chairman in the case of officers and servants whose monthly salary does not exceed one hundred rupees, and in every other case by the Board.

(*2*) An appointment so made by the Board shall not be held to be a contract or agreement within the meaning of section 16.

(*3*) The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

[a-a] These figures and word were substituted for the original words and figure by Act XVI of 1895.

Every order of the chairman dismissing for misconduct an officer or servant whose monthly salary exceeds thirty rupees shall be subject to the approval of the Board.

Sanction of Political Resident at Aden when necessary.

22. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to any officer whose monthly salary is three hundred rupees or more, be subject to the previous sanction of the Political Resident at Aden.

IV.—Of the Property and Liabilities of the Board.

General Powers as to Property.

Powers of Board as to property.

23. (*1*) The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the port or settlement of Aden; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Proviso.

(*2*) Provided that no sale of immoveable property, and no lease of any such property for a term exceeding twenty-one years, shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

Procedure to be observed when the Board are unable to acquire by agreement any immoveable property.

24. (*1*) When the Board are unable to acquire by agreement any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 [a].

I of 1894.

(*2*) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

Transfer of Government property to the Board.

25. (*1*) The property specified in Schedule A shall [b] vest in the Board:

Provisos.

(*2*) Provided that—

(*a*) if any question arises between the Government and the Board as to the boundaries of any portion of such property, Government may define and demarcate such boundaries, and the decision of Government in respect to such boundaries shall be final;

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[a] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

[b] Portion repealed by Act XVI of 1895 is omitted.

(*b*) any portion of the land specified in the said schedule which shall be required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the Board except for buildings or other permanent structures erected by the Board thereon;

(*c*) any work which the Governor General in Council may consider necessary in the public interests may be executed by Government in or upon any of the property specified in the said schedule, without claim to compensation on the part of the Board, except for buildings or other permanent structures erected by the Board which it shall be necessary to clear away for the purposes of such work.

[a](*3*) Notwithstanding anything contained in or done under this section, the crane on the Post Office pier entered as No. 23 in the said schedule shall, whenever and so long as the use thereof may be required by or on behalf of Government, be rendered by the Board available for such use, free of charge.

[a](*4*) The property specified in Schedule C shall, on and after such date as shall be notified in this behalf by the Governor in Council, vest in the Board.

Saving of right of Her Majesty to the bed of the sea.

[b]**25A.** Nothing in this Act or in any other enactment of the Governor of Bombay in Council shall be deemed to affect the proprietary right of Her Majesty to the bed of the sea facing lands on the shore, which are vested in Her Majesty, or the right of Her Majesty to reclaim any part of the bed of the sea; but the Board shall have, on and along the outer boundary wall or line and to seaward of any such reclamation of a part of the bed of the sea, the same rights, if any, as it would have under this Act or any such enactment as aforesaid on or along the strand or foreshore or to seaward of the same, if no such reclamation had been made.

Transfer to the Board of the Aden port fund's liabilities and claims.

26. All debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Political Resident on behalf of the Aden port fund shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board;

and all sums of money due to the said Aden port fund shall be deemed to be due to the Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might but for the passing of this Act have been instituted, by or against the said Political Resident as manager of the Aden port fund, may be continued or instituted by or against the Board.

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[a] Sub-sections (*3*) and (*4*) were added to s. 25 by Bom. Act I of 1895, s. 2.

[b] S. 25A was inserted by Bom. Act I of 1895, s. 3.

V.—Of the Powers and Duties of the Board.

Works.

Works to be constructed.

27. (*1*) The works to be constructed and carried out by the Board may include the following:—

(*a*) cleaning, deepening and improving any portion of the port, and the construction, procuring and application of dredges and other machinery for that purpose;

(*b*) wharves, quays, stages, jetties, piers and docks, with all necessary and convenient arches, drains, landing-places, stairs, fences, roads, railways and approaches;

(*c*) tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods landed, or to be shipped, or otherwise;

(*d*) light-houses, light-ships, beacons, pilot-boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;

(*e*) laying down moorings, and the erection of cranes, scales and all means and appliances necessary for berthing, loading and unloading vessels;

(*f*) reclaiming, excavating, enclosing and raising any part of the foreshore of the port vested in the Board;

(*g*) procuring and employing steam-vessels for towing vessels into, out of, or within the port;

(*h*) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary or desirable for carrying out the purposes of this Act:

But no new work to be commenced without a plan and estimate if its cost shall exceed one thousand rupees; nor without the sanction of Government to such plan and estimate if the cost shall exceed fifty thousand rupees.

(*2*) Provided always that no new work, the estimated cost of which exceeds one thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them; nor shall any new work, the estimated cost of which exceeds fifty thousand rupees, or which forms part of a projected work, the whole of which is estimated or is likely to cost more than fifty thousand rupees, be commenced until such plan and estimate shall have been submitted to, and approved by, Government.

Free landing-places to be provided.

28. The Board shall provide such number of public landing-places as shall in the opinion of the Political Resident at Aden, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Removal of bathing and landing-places. Proviso.

29. The Board may occupy, or remove, or alter any public bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same: Provided that the Board shall provide for the use of the public such other bathing-places or landing-places, if any, as the Political Resident at Aden may direct.

Landing and Shipping of Goods.

Declaration that wharves, etc., are ready for receiving, landing and shipping goods.

30. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in sea-going vessels, the Board may, with the previous sanction of the Political Resident at Aden, by a notification published in three consecutive numbers of the Bombay Government Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

If accommodation sufficient, all sea-going vessels compelled to use wharves, etc.

31. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Board may, with the previous sanction of Government, by an order published in three consecutive numbers of the Bombay Government Gazette, direct that no goods, or that no goods other than a particular class or classes of goods, shall be landed or shipped from or in any sea-going vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order: Provided that no order shall be made under this section in respect of the landing or shipping of coals.

Proviso.

Inland vessels compelled to use wharves, etc.

32. (*1*) When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the Board, with sufficient warehouses, sheds and appliances in that behalf, the Board may, with the sanction of the Political Resident at Aden, by an order published in three consecutive numbers of the Bombay Government Gazette, declare—

(*a*) that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels; and

(*b*) that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or

in any vessel not being a sea-going vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel, while within such limits, to anchor, fasten or lie within fifty yards of low-water mark without the consent of the Board.

(*2*) If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the Board may cause the same to be removed out of the said limits.

(*3*) The Board may in like manner, and with the like sanction, alter, vary or revoke any such order.

Exemptions from obligation to use wharves, etc.

33. (*1*) Notwithstanding anything contained in sections 31 and 32—

(*a*) the Political Resident at Aden may, by notification in the Bombay Government Gazette, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments, and on such conditions, as he may think fit, and otherwise grant exemption from the provisions of the said sections;

(*b*) military or naval munitions or stores may be landed or shipped at any time and at any place within the limits of the port which the Political Resident at Aden may deem convenient.

(*2*) The Political Resident at Aden may, by like notification, cancel or modify any notification made by him under clause (*a*) of sub-section (*1*).

(*3*) The Political Resident at Aden may also at any time require that troops and their baggage, and military or naval munitions or stores, be landed or shipped with the least practicable delay, in preference to all other passengers or goods at the time awaiting landing or shipping; and it shall be incumbent on the Board to give effect to any such requisition.

Discharge of liability on goods landed.

34. (*1*) Whenever any goods are landed by the Board from any vessel, the Board shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in Schedule B, and may in any such receipt include all goods landed from such vessel during one day.

(*2*) No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Customs-wharves, etc.

Accommodation to be provided for Customs-officers on wharves, etc., appointed under Sea Customs Act.

35. When Government appoint under the provisions of any Act[a] for the levy of sea-customs duties any wharf, quay, stage, jetty or pier to be a wharf or place for the landing and shipping of goods within the meaning of such Act, the Board shall set apart, maintain and secure on or in such wharf, quay, stage, jetty or pier, such portion thereof or place therein, or adjoining thereto, for the use of the officers of Customs as the Political Resident at Aden approves or appoints in that behalf. VIII of 1878.

Dues at Customs-wharves, etc.

36. Notwithstanding that any wharf, quay, stage, jetty or pier, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of Customs, all rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, shall be paid and be payable to the Board or to such persons as they may appoint to receive the same.

Erection of Wharves, etc., by Private Persons.

Private wharves, etc., prohibited.

37. (*1*) Save as hereinafter provided, no person except the Board shall [b] make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier erection or mooring.

(*2*) Any matter or thing so made, erected or fixed may be removed by the Board, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Board in removing such matter or thing.

Power to permit erection of private wharves, etc., within the port subject to conditions.

38. The Board may, by an order in writing and subject to the conditions contained in the same, permit any person to make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier erection or mooring.

Wharves, etc., beyond port limits.

39. In case any wharf, dock, quay, stage, jetty, pier erection or mooring is, [b] without the consent in writing of the Governor in Council, made,

[a] See Act VIII of 1878, a revised edition of which, as modified up to 1st July, 1891, has been published by the Legislative Department.

[b] Words repealed by Act XVI of 1895 are omitted.

erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier erection or mooring has been made, erected or fixed, the Board may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier erection or mooring without making any compensation therefor.

Rates.

Scale of tolls, rates and charges to be framed with the approval of Government.

40. (*1*) The Board shall frame, and may from time to time alter—

(*a*) a scale of tolls on the landing and shipping of goods from and in sea-going vessels and vessels not being sea-going vessels, respectively, at any place within the port;

(*b*) a scale of rates for the use of the moorings, wharves, quays, stages, jetties and piers belonging to the Board, and for the storing and keeping of any goods stored in any premises belonging to the Board;

(*c*) a scale of charges for the landing and shipping of goods by the servants of the Board, and for the removal of goods, and for any services to be performed by the Board or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Board.

(*2*) Such scales or altered scales shall be submitted, through the Political Resident at Aden, to Government, and, after approval or modification by Government, shall be published in the Bombay Government Gazette, and shall thereupon have the force of law: Provided that no such scale or altered scale shall be approved or modified by Government until a draft of the same and a notice specifying a date at or after which the draft will be submitted to Government shall have been published in the Bombay Government Gazette and in such other manner as Government from time to time prescribe.

(*3*) Nothing in sub-section (*1*) or (*2*) shall be deemed to authorize—

(*a*) the inclusion in any scale framed or approved thereunder of any toll, rate or charge in respect of military or naval munitions or stores, or, for such time as a vessel is landing or shipping any such munitions or stores, in respect of any such vessel;

(*b*) the levy from officers and soldiers of Her Majesty's regular forces on duty or on the march of any duties or tolls from which they are exempted by section 143 of the Army Act [*].

44 & 45 Vict., c. 58.

[*] Figures repealed by Act XVI of 1895 are omitted. The Army Act is printed in the Supplement to the Collection of Statutes relating to India, Ed. 1881, p. 86.

(*4*) [*Repealed by Act XVI of 1895.*]

Tolls, rates and charges may be remitted in special cases.

41. Government may, in special cases, remit the whole or any portion of any toll, rate or charge leviable under the last preceding section.

Agency for collection of tolls on landing and shipping of goods.

42. Tolls on the landing and shipping of goods may be collected by officers and servants appointed by the Board in this behalf, or by any person whom the Board appoint to be their agent for this purpose, or may be farmed or compounded for, either wholly or in part, by the Board for any period not exceeding one year at a time.

Board's lien on goods for tolls and charges.

43. (*1*) For the amount of all tolls, rates and charges leviable under this Act in respect of any goods, the Board shall have a lien on such goods, which may be seized and detained until such tolls, rates and charges are fully paid.

(*2*) Tolls, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Board or to be shipped for export, shall be payable before the goods are removed or shipped or taken on board a lighter for the purpose of being shipped.

(*3*) The lien for such tolls, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average, or for lighterage, where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Prior lien on goods for freight, etc.

44. (*1*) If, at or before the time of landing from any vessel of any goods at any wharf, quay, stage, jetty or pier belonging to the Board, the master or owner of such vessel, or the person by whom the goods are landed, gives to the Board notice in writing that such goods are to remain subject to a lien for freight, primage or general average, or for lighterage, as the case may be, of an amount to be mentioned in such notice, such goods shall continue liable, after the landing thereof, to such lien.

(*2*) Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Political Resident at Aden, in a public warehouse, at the risk and expense of the owner of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of lien for freight, etc.

45. Upon the production to any officer appointed by the Board in that behalf of a document purporting to be a receipt for, or a release from, the amount of any lien to which any goods are liable under the last preceding

section, executed by the person by or on whose behalf notice of such lien has been given, the Board may permit such goods to be removed without regard to such lien: Provided they shall have used reasonable care in respect to the authenticity of such document.

Goods may be removed to warehouse.

46. (*1*) Whenever goods which have been landed have, without any default on the part of the Board, been left for five clear days on or in any wharf or shed belonging to the Board, the Board may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Political Resident at Aden, to a public warehouse; and the removal to and detention in any such warehouse shall be at the risk and expense of the owner of the said goods.

Liability of consignee.

(*2*) Whenever any goods are so removed, the Board shall give notice of such removal to the consignee of such goods or to his agent, if any, if such consignee's or agent's address be known, by letter sent by post to such address or left thereat; and the consignee of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the Board, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

(*3*) If the goods are removed to a public warehouse, the said consignee shall be liable to the charges for warehousing goods in such public warehouse; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Board and shall be subject to the power of sale hereinafter given.

Recovery of tolls, rates and charges by sale of goods.

47. (*1*) If the tolls, rates and charges payable to the Board under this Act in respect of any goods are not paid, or if the lien for freight, primage, general average or lighterage, where such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage, general average or lighterage shall, at the expiration of four months from the time when the goods were seized or placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Notice of sale to be given.

(*2*) Before making such sale, at least ten days' notice of the same shall be given by publication thereof by beat of tom-tom, and by posting notices at the public landing-places within the settlement of Aden.

(*3*) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be

given to the owner of the goods or to his agent by letter delivered at such address or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

Proviso. (*4*) Provided that, if such goods are of so perishable a nature as in the opinion of the officer appointed by the Board in that behalf to render early or immediate sale necessary or advisable, the Board may, within such period, being not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods or his agent as the urgency of the case admits of.

Application of sale-proceeds.

48. (*1*) The proceeds of every such sale shall be applied as follows:—

(*a*) in payment of the expenses of the sale;

(*b*) in payment, according to their respective priorities, of the liens and claims excepted in section 43 from the priority of the lien of the Board;

(*c*) in payment of the tolls, rates and charges due to the Board in respect of the goods.

Proviso. (*2*) The surplus, if any, shall be paid to the owner of the goods, or to his agent, on his applying for the same: Provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Board why such application was not so made, and, in case such application shall not be so made nor reason shown, such surplus shall be held by the Board upon trust for the purposes of this Act.

Power to distrain vessels for the non-payment of rates, etc.,

49. (*1*) If the master of any vessel, in respect of which any tolls, rates, charges or penalties shall be payable under this Act, or any bye-law made in pursuance hereof, refuses or neglects to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest of their own authority such vessel, and the tackle, apparel or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid.

and sell them.

(*2*) And in case any part of the said tolls, rates, charges or penalties, or of the costs of the distress or arrest or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such tolls, rates, charges or penalties, and costs of sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand.

Port-clearance not to be granted till rates, etc., are paid.

50. If the Board shall give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, rates, charges or penalties chargeable under this Act, or any bye-law or order made in pursuance hereof, against such vessel or the owner or master of such vessel, in respect thereof, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Surplus of port-dues to be paid to the Board.

51. The surplus, if any, of the moneys credited under section 36 of the Indian Ports Act, 1889 [a], to the account of the port fund of Aden after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the Board.

X of 1889.

Control of Pilots.

Trustees to be vested with the right and privilege of maintaining pilots;

52. (*1*) The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and shall be bound to provide a sufficient number of pilots for that purpose, and all fees for pilotage shall be paid to the Board: Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1889 [b], to pilot vessels.

X of 1889.

and to make bye-laws with the approval of Government.

(*2*) The Board may also, from time to time, make such bye-laws and regulations as they shall think fit—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(*b*) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise, as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 54.

Bye-laws.

Trustees empowered to make bye-laws.

53. (*1*) The Board may from time to time make bye-laws, consistent with this Act and with the Indian Ports Act, 1889 [b],—

X of 1889.

[a] The reference to s. 47 of Act XII of 1875 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

[b] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2.

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port;

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers, and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(*c*) for regulating the reception and removal of goods within and from the premises of the board, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(*d*) for settling the mode of payment of tolls, charges and rates levied under this Act;

(*e*) for licensing and regulating water-boats and lighters within the port;

(*f*) for the removal of wrecks from the port, and keeping clean the port, the foreshore, and the works of the board, and for preventing filth or rubbish being thrown therein or thereon;

(*g*) for the guidance of persons employed by them under this Act, and generally for carrying out the purposes of this Act.

(*2*) The Board may also from time to time alter or revoke any bye-laws so made by them.

Approval and publication of bye-laws.

54. (*1*) No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the Bombay Government Gazette; and no bye-law, or alteration or revocation of a bye-law, shall be approved by Government, until a draft of the same, and a notice specifying a date at or after which the draft will be submitted to Government, shall have been published in the Bombay Government Gazette, and in such other manner as Government from time to time prescribe, nor unless the said draft shall have been submitted for their approval through the Political Resident at Aden.

Cancellation by Government.

(*2*) It shall be lawful for Government at any time, by notification in the Bombay Government Gazette, to cancel any bye-law or regulation made and published under the provisions of this and of the two last preceding sections.

Penalties for infringement of bye-laws.

55. The Board may, in the bye-laws made under section 53, prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty

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exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

Bye-laws and scales of rates and charges to be exhibited.

56. The Board shall cause the said bye-laws, and every scale of tolls, rates and charges leviable by the Board, to be printed in the English, Gujarati and Arabic languages, and to be kept hung up in some conspicuous place at each of the several wharves, quays, stages, jetties, piers, warehouses and sheds belonging to the Board.

VI.—Of Revenue and Expenditure.

Management of Funds.

Moneys where to be kept.

57. (*1*) All moneys raised by or paid to the Board under this Act shall be kept in the Government Treasury at Aden [a] or in the Bank which is at the time appointed to conduct the business of Her Majesty's treasury there.[a]

How to be disbursed.

(*2*) No disbursement of such moneys or any part thereof shall be made except upon a cheque signed by the chairman and one other trustee.

(*3*) Payment of any sum in excess of five hundred rupees, if it relate to the Port Engineer's department, or of one hundred rupees, if it relate to any other department, shall be made by the Board by means of a cheque signed as aforesaid and not in any other way.

(*4*) Payments of sums not exceeding five hundred rupees each may be made on behalf of the Board by the Port Engineer on account of any charge in his department, in cash, cheques for sums not in excess of five thousand rupees each, signed as aforesaid, being drawn from time to time in favour of the Port Engineer to cover such payments.

(*5*) In every department other than that of the Port Engineer, sums not exceeding one hundred rupees each may be paid, by such officer as the Board appoints for this purpose, in cash, cheques for sums not in excess of five hundred rupees each, signed as aforesaid, being drawn from time to time in favour of such officer to cover such payments.

Moneys on what purposes to be expended.

58. The moneys belonging to the Board shall be held by them in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges (namely):—

(*a*) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys, due to the trustees, and to the officers and servants appointed under this Act, or lent to the Board by Government, and the contribution, if any, payable to Government on

[a-a] These words were added by Bom. Act I of 1895, s. 4.

account of the pension and leave allowances of any officer lent to the Board by Government, and the contributions, if any, duly authorized to be made to any provident fund established by the officers and servants appointed under this Act;

(*b*) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;

[a] (*c*) such sums as Government may from time to time require the Board to contribute on account of expenses in connection with the harbour-police and police employed in guarding the docks, warehouses and other property of the Board and on account of medical services supplied in the port, in lieu of, or in addition to, any expenditure which Government may direct to be made from the funds or hospital port-dues, the control or application of which is, by sections 36 and 50 of the Indian Ports Act, 1889, [b] X of 1889. vested in Government;

(*d*) the interest and instalments of capital due in respect of any loan that may have been raised by the Board or for which it is liable;

(*e*) any charges for which the Board may be liable under section 76 or section 77;

(*f*) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;

(*g*) any other charge which may be specially sanctioned by Government on the application of the Board, or for which the Board may be legally liable.

Annual Estimates.

Chairman to submit an annual estimate of income and expenditure to the Board.

59. (*1*) The chairman shall, at a special meeting to be held in the month of January in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing, in such detail and form as the Board shall from time to time direct.

(*2*) Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

Board to revise and sanction the estimate.

60. The Board shall consider the estimate so submitted to them, and shall sanction the same, either unaltered, or subject to such alterations as they shall think fit.

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[a] This clause was substituted for the original cl. (*c*) by Bom. Act I of 1895, s. 5.

[b] For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.

Estimate to be submitted to Governor in Council.

61. The estimate, as sanctioned by the Board, shall be submitted, through the Political Resident at Aden, to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall resubmit the estimate so amended, through the Political Resident at Aden, to the Government.

List of works to accompany estimate.

62. Together with the said estimate, the Board shall submit, through the Political Resident at Aden, to the Government, a list of the works which the Board propose to execute during the year to which the estimate relates, showing the order in which the said works are to be executed, and the date within which each of them will probably be completed, or, in the case of any work which will not be completed within the year, the progress intended to be made therewith during the said year.

Supplementary estimates may be made when necessary.

63. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board, and submitted to the Government in the same manner as if it were an original annual estimate.

No expenditure above three thousand rupees to be incurred unless sanctioned in an estimate; if incurred, to be reported to Government.

64. (*1*) Save in cases of pressing emergency, no sum exceeding three thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

(*2*) If any sum exceeding three thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the chairman, through the Political Resident at Aden, to Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

Audit of Accounts.

Accounts to be audited and examined.

65. (*1*) The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined in such manner and by such auditor or auditors as shall, from time to time, be appointed by Government.

Auditors to have power to call for books, etc.

(*2*) For the purposes of such audit and examination the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding, or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear

before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Their remuneration to be fixed by Government. Their report to be published.

(*3*) The auditors shall be paid by the Board such remuneration as Government shall determine; and, within fourteen days after the audit and examination of the accounts for any half-year shall have been completed, the auditors shall forward a report upon the accounts for such half-year to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the Bombay Government Gazette.

Disposal of Balances.

Balances may be invested by the Board in public securities.

66. (*1*) The Board may invest any balance remaining on the thirty-first day of March of each year in public securities, and may from time to time sell the said securities, and either re-invest the proceeds in other such securities, or credit the same to the general funds of the Board.

Amounts which may be so invested to be limited by Government.

(*2*) But the money so invested by the Board shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribe by Government.

(*3*) In this section "public securities" means securities of the Government of India, and debentures or other securities issued by the Board.

VII.—Penalties.

For being interested in contracts with the Board.

67. (*1*) Any person who, being a trustee, or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code[a]: XLV of 1860.

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(*2*) Provided that nothing in this section shall apply to any person by reason only of his—

(*a*) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board; or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted; or

(*c*) being interested in any loan of money to the Board.

For obtaining illegal gratification.

68. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code[a], who shall XLV of 1860. accept or obtain, or agree to accept or attempt to obtain, from any person for

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or dis-service to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code [*] in the case of the like offence committed by a public servant.

XLV of 1860.

Infringement of sections 31, 32, 33 or 38.

69. Whoever infringes any orders issued under section 31 or 32, or any condition prescribed under section 33 or 38, shall be punished with fine which may extend to one hundred rupees, and, if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order is infringed.

For refusing or neglecting to appear before an auditor of accounts, etc.

70. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration, when duly required so to do by any auditor of accounts under section 65, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

For understating quantity or weight of goods, etc.

71. If it be found, when goods are imported at or exported from, any wharf, quay, stage, jetty or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been, in the opinion of the Board, intentionally understated in any document presented to any officer of the Board for the purpose of enabling him to determine the tolls, rates or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper tolls, rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall, on the application of the Board, be recoverable under the warrant of a Magistrate of any class as if it were a fine inflicted by such Magistrate.

For evading rates, etc.

72. Any person who removes, or attempts to remove, or abets, within the meaning of the Indian Penal Code [*], the removal of any goods, vessel, animal or vehicle with the intention of evading payments of the tolls, rates or charges lawfully payable in respect thereof to the Board shall be punished with fine which may extend to fifty rupees.

XLV of 1860.

Compensation for

73. (*1*) In case any damage or mischief is done to any wharf, dock, quay,

[*] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

damage to property of board may be awarded by Magistrate after enquiry.

jetty, stage, pier or work constructed or acquired by the Board under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the Board, any Magistrate of the first class having jurisdiction at Aden may, on the application of the Board, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

(*2*) If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Board out of the proceeds of the distress :

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(*3*) Provided that, if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the pilot service, or to the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section, [*] unless such damage or mischief is in no way attributable to the order, act or improper omission of such officer [*].

Cognizance of offences.

74. (*1*) Except as is otherwise provided in sections 71 and 73, all offences against this Act, or against a bye-law made under section 53, shall be cognizable by a Magistrate of any class.

Disposal of fines.

(*2*) All fines and damages recovered from any offender or by any distress under section 73 shall be paid to the board.

Prosecutions.

75. Prosecutions under this Act may be instituted by the Board, or by any person authorized by them in this behalf, and not otherwise.

VIII.—Control.

Government may order survey.

76. The Governor in Council may at any time order a survey and examination of any work of the board under this Act, or of the site thereof, and the cost of such survey or examination shall be borne and paid by the Board.

[*-*] These words were added by Bom. Act I of 1895, s. 6.

Government may carry out neglected works.

77. If the Board allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them, or duly estimated for and sanctioned, and do not, after notice given by Government in writing, proceed effectually to repair or complete such work to the satisfaction of the Governor in Council, Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Board.

Governor in Council may prohibit execution of orders, etc., affecting the defensibility of Aden or the security or sanitary condition of the garrison.

78. (*1*) If, in the opinion of the Governor in Council, the execution of any order or resolution of the Board or the doing of anything which is being done, or is about to be done, by or on behalf of the Board, injuriously affects or is likely to affect the defensibility of Aden against Her Majesty's enemies, or the security or sanitary condition of the garrison, he may, by an order in writing, prohibit the execution or doing thereof.

Pending orders of Governor in Council, Political Resident may act.

(*2*) Pending the receipt of an order by the Governor in Council under this section, the Political Resident at Aden may, by a like order, suspend the execution or doing of anything by or on behalf of the Board which appears to him, for any of the reasons aforesaid, to be open to objection.

In default, the Governor in Council may require the Board to increase the rates, etc.,

79. (*1*) If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, the Governor in Council may require the Board, by an order in writing, to increase, subject to his sanction and to the provisions of section 40, to such extent and for such period as shall appear necessary, the tolls, rates and charges, or any of them, for the time being in force under the said section.

and, on the Board's failing to do so, may himself increase them.

(*2*) If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the Bombay Government Gazette, increase the said tolls, rates, charges or any of them, and such notification shall have the same force as if a new scale to the same effect had been duly framed, sanctioned and published under section 40.

Governor in Council may revoke powers of Board.

80. (*1*) If at any time the Governor in Council is satisfied that the purposes intended to be accomplished under this Act have not been, and are not likely to be, properly accomplished by the board, the Governor in Council may, by notification in the Bombay Government Gazette, give notice that, unless within six months the Board take measures to the satisfaction of the Governor in Council for properly accomplishing such purposes, the powers by this Act

conferred on the Board will, at the end of such period, be withdrawn and revoked.

(*2*) On the expiration of the period aforesaid, the Governor in Council may, if no such measures to his satisfaction have been taken by the Board, declare such powers to be withdrawn or revoked, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Board shall thereupon vest in Government.

IX.—Miscellaneous.

81. [*Saving of previous port regulations.*] *Repealed by Act XVI of 1895.*

Recovery of dues as fines under the Code of Criminal Procedure.

82. All fees and sums due on account of property for the time being vested in the Board, and all arrears of tolls, charges and rates imposed under this Act, may be recovered, in addition to the other modes hereinbefore provided, upon a summary proceeding before a Magistrate in the manner provided in the Code of Criminal Procedure, 1882 [a], for the recovery of fines. X of 1882.

Trustees not personally liable.

83. No trustee shall be personally liable for any contract made or expense incurred by or on behalf of the Board; but the funds from time to time in the hands of the Board shall be liable for, and chargeable with, all contracts made in manner provided in this Act.

Trustees liable for breach of trust.

84. Every trustee shall be liable for any mis-application of money entrusted to the Board to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

Limitation of suits.

85. (*1*) No suit shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the accrual of the cause of such suit.

Effect of tender of amends in suit for damages.

(*2*) And in the case of a suit for damages, if tender of sufficient amends shall have been made before the suit was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

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[a] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

Board not responsible for certain acts of their officers and servants.

86. (*1*) The Board shall not be responsible for any misfeasance, mal-feasance or non-feasance of any officer or servant appointed under this Act;

X of 1889. nor if they should be appointed by Government, under the Indian Ports Act, 1889 [a], Conservators of the Port, for any misfeasance, mal-feasance, or non-feasance of any Deputy Conservator, Port Officer or Harbour Master, or of any assistant or deputy of any such officer or of any person acting under the authority or direction of, or in subordination to, any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board, which may be used by such vessel.

Proviso. (*2*) Provided that nothing in this section shall protect the Board from a suit in respect of damage to, or loss of, goods landed or shipped by them or retained in their custody.

SCHEDULE A.

(*See section 25*)

PROPERTY VESTED IN THE BOARD.

I.—All the right, title and interest of the Secretary of State for India in Council in the following lands, buildings, piers, embankment, light-house, signal-stations, jetty and quay (namely):—

Consecutive Number.	Name of Property.	Heretofore in charge of—	Boundaries and general description.
1	Pilot bandar .	The Political Resident at Aden.	Below Ras Morbut Fort at Steamer Point; a stone pier.
2	Port fund boat-slips.	Do . .	Adjoining the Peninsular and Oriental Company's slip at Steamer Point, consisting of stone sheds, slips and rails.
3	Post Office pier .	Do . .	Opposite Post Office at Steamer Point; partly constructed of stone, and partly of screw iron piles.
4	Port fund store-rooms.	Do . .	On Government ground near the Post Office at Steamer Point; stone building.
5	Ditto . .	Do . .	Ditto.
6	Port magazine .	Do . .	A magazine in the solid rock near the saluting battery near Ras Morbut.
7	Lascars' lines (Khalasi lines).	Do . .	In Post Office Bay.
8	Port Surgeon's jetty.	Do . .	Opposite Government tanks at Steamer Point; stone pier.

[a] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)